IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10827 OF 2004

Mohammed Shakeel Qureshi & Anr. ..Petitioners.

Versus

Abdul Aziz Abdul Shakoor & Ors. ..Respondents.

Mr. M.B. Shirsat for the Petitioners.

Mr. Sahu with Ms. S.T. Sheikh i/by S.K. Srivastva for the Respondents 1 and 2.
Mr. Yusuf S. Baugwala, respondent No.4 - in-person.
Mr. Nainsh Amin for the Respondent No.6.
Mr. A.H. Palekar, AGP for the Respondent No.9.

CORAM : S. A. BOBDE, J.
DATED : 24TH OCTOBER, 2005.

P.C.:

1. Rule returnable forthwith.

2. Mr. Sahu, the learned counsel for the Respondents Nos. 1 and 2, Mr. Y.S.Baugwala, the Respondent No.4 -in -person, Mr. N. Amin, the learned counsel for the Respondent No.6 and Mr. Palekar, AGP for the Respondent No.9, appear and waive service of rule. Heard by consent.

3. The impugned order is passed by the Deputy Charity Commissioner, directing the Respondent Nos. 1

and 2 to convert the amount of Rs.15/-lacs invested with the Union Bank of India in short term deposit (for one year) into long term deposit immediately and submit a compliance report to the said authorities within eight days.

4. The only grievance made on behalf of the petitioners is that the amount collected from the offertory boxes was Rs.25,13,520/-, however, the learned Dy. Charity Commissioner has made provision only in regard to Rs.15 lacs.

5. Mr. Sahu, the learned counsel for the respondent Nos. 1 and 2 submits that the balance amount i.e. other than 15 lakhs has been adequately explained by the respondents in their change report dated 27.11.2004. According to the learned counsel that change report has been accepted. The respondents case is that the balance amount has been expended for the purpose of the Trust.

6. It is clear that the Dy.Charity Commissioner has observed that Rs. 25,13,520/- have been received by the Trust. However, the Dy. Charity Commissioner has accepted that explanation to the extent of about three lacs in which Rs.15/- lacs have been taken over

care of by directing the Trust to deposit in a long term deposit. I am of view that it was necessary for the learned Dy. Charity Commissioner to consider how the remaining amount i.e. other than Rs.15/- lacs has been dealt with by the Trust in detail.

7. In the circumstances, the impugned order is upheld in regard to the direction No.2. However, the matter is remanded back to the Dy. Charity Commissioner to pass an appropriate orders in relation to the remaining amount after taking into account the expenditure made by the Trust. The Charity Commissioner shall give an opportunity of hearing to all concern before passing any order.

8. The learned Dy. Charity Commissioner is directed to decide the matter as expeditiously as possible and in any case within six weeks from the next date. The parties are directed to appear before the Dy. Charity Commissioner on 22nd of November, 2005.

9. Rule is disposed of in the above terms.

10. Civil Application No.3134/2004 does not survive in view of the above order.

DT. 24.10.05 (S.A.BOBDE,J)

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